

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

WILLIAM E. DUGAN, <i>et al.</i>)	
)	CIVIL ACTION NO. 08 C 2464
Plaintiffs,)	
)	JUDGE MAROVICH
vs.)	
)	MAGISTRATE JUDGE BROWN
NAPERVILLE EXCAVATING CO.,)	
an Illinois corporation,)	
)	
Defendant.)	

JOINT INITIAL STATUS REPORT

Plaintiffs, William E. Dugan, *et al.* (“Funds”), and Defendant, Naperville Excavating Co., an Illinois corporation (“Naperville”), by their attorneys, submit the following initial status report pursuant to the Court’s standing Order:

- A. This matter is set for a status hearing before the Court on July 1, 2008 at 11:00 a.m.
- B. The attorneys of record for Plaintiffs are Catherine M. Chapman, Beverly P. Alfon, and Cecilia M. Scanlon of Baum Sigman Auerbach & Neuman, Ltd. Both Catherine M. Chapman and Beverly P. Alfon expect to try this case. The attorneys of record for Defendant are Steven H. Adelman, Kevin D. Kelly, and Erin R. Peterson of Locke Lord Bissell & Liddell LLP. Steven H. Adelman is expected to try the case on behalf of Defendant.
- C. The basis of federal jurisdiction in this matter is ERISA, 29 U.S.C. §§1132, 1145.
- D. The parties are not requesting a jury trial in this matter.

E. The major factual and legal issue in this case is whether or not Defendant failed to submit fringe benefit contributions due to the Plaintiff Funds. Since Plaintiffs filed their lawsuit seeking a payroll audit of the company's books and records for the period of January 1, 2006 through December 31, 2006, the parties have scheduled an audit for July 8, 2008.

F. Assuming that a delinquency is found, the relief sought by the Plaintiffs is to collect any unpaid contributions and liquidated damages due as a result of the audit, plus all related audit fees, attorneys' fees, and costs.

G. The Defendant was served by personal service on Defendant's Registered Agent. The Answer was due by May 28, 2008, and the time was extended to June 20 by Order dated May 29, 2008. Defendant filed its Answer on June 20, 2008.

H. At this time, the parties do not anticipate any motions. The parties are optimistic that a resolution will be reached in this matter.

I. Defendant agreed to submit its payroll records to the Plaintiffs' auditors on July 8, 2008. The parties will be in a better position to assess the type and length of discovery necessary to resolve this case once the audit report is completed. However, for the purpose of fulfilling the requirements of this report, it is agreed that if the audit results in factual disputes between the parties, the parties will likely engage in written discovery with the possibility of two (2) depositions for each side. The parties believe that all of this discovery could be completed within ninety (90) days from the date Defendant receives the audit results.

J. The parties anticipate that this case will not go to trial, and that it will settle prior to such time.

K. At this point, since Defendant has agreed to provide its payroll books for an audit on

July 8, 2008, the parties are optimistic that settlement will be possible. The parties hope to engage in additional settlement discussions upon receipt of the audit report.

L. The parties do not consent to trial before a Magistrate Judge.

Respectfully submitted,

/s/ Beverly P. Alfon
One of the Attorneys for Plaintiffs

Beverly P. Alfon
Attorney for Plaintiffs
BAUM SIGMAN AUERBACH &
& NEUMAN, LTD.
200 West Adams Street, Suite 2200
Chicago, IL 60606-5231
Bar No.: 6274459
Telephone: (312) 236-4316
Facsimile: (312) 236-0241
E-Mail: balfon@baumsigman.com

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/s/ Steven H. Adelman
One of the Attorneys for Defendant

Steven H. Adelman
Kevin D. Kelly
Erin R. Peterson
LOCKE LORD BISSELL
& LIDDELL LLP
111 S. Wacker Dr., Suite 4300
Chicago, IL 60606
Telephone: (312) 443-0405
Email: sadelman@lordbissell.com